

Case 1:05-cr-10053-NMG Document 47-1 Filed 10/02/2006 Page 1 of 10

AO 245B(05-MA)

(Rev. 06/05) Judgment in a Criminal Case
Sheet 1 - D. Massachusetts - 10/052007 JAN 4 P 3:00
RECEIVED
CLERK'S OFFICEUNITED STATES DISTRICT COURT
District of MassachusettsUNITED STATES OF AMERICA
v.

TYRONE BATTLE

JUDGMENT IN A CRIMINAL CASE

Case Number: 1: 05 CR 10053 - 001 - NMG

USM Number: 25529-038

Mark W. Shea, Esq.,

Defendant's Attorney

 Additional documents attached**THE DEFENDANT:**

- pleaded guilty to count(s) 1
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Additional Counts - See continuation page

| Title & Section | Nature of Offense | Offense Ended | Count |
|---------------------|---|---------------|-------|
| 18 USC § 922 (g)(1) | Felon in Possession of a Firearm and Ammunition | 12/20/04 | 1 |

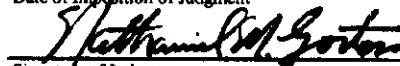
The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

09/20/06

Date of Imposition of Judgment

Signature of Judge
The Honorable Nathaniel M. Gorton
U.S. District Judge

Name and Title of Judge


10/2/06

Date I hereby certify on 10-4-06 that the foregoing document is true and correct copy of the electronic docket in the captioned case electronically filed original filed on original filed in my office on

Sarah A. Thornton
Clerk, U.S. District Court
District of Massachusetts

2007 OCT - 4 P 3:00

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AO 245B(05-MA) (Rev. 06/05) Judgment in a Criminal Case
Sheet 2 - D. Massachusetts - 10/05

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DEFENDANT: TYRONE BATTLE
CASE NUMBER: 1: 05 CR 10053 - 001 - NMG

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 63 month(s)

The court makes the following recommendations to the Bureau of Prisons:

That defendant participate in 500 hour drug abuse program, anger management counseling and a mental health program, if available at the designated Bureau of Prison's facility.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on 1/2/06 to USP-A-water
A. Water Ca, with a certified copy of this judgment.
 By D. Smith Water
 UNITED STATES MARSHAL
J. Wilson CIE
 DEPUTY UNITED STATES MARSHAL

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AO 245B (05-MA) (Rev. 06/05) Judgment in a Criminal Case
Sheet 3 - D. Massachusetts - 10/05

Judgment—Page 3 of 10DEFENDANT: **TYRONE BATTLE**CASE NUMBER: **1: 05 CR 10053 - 001 - NMG****SUPERVISED RELEASE** See continuation pageUpon release from imprisonment, the defendant shall be on supervised release for a term of: **36** month(s)

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed 50 tests per year, as directed by the probation officer.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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AO 245B(05-MA) (Rev. 06/05) Judgment in a Criminal Case
Sheet 4A - Continuation Page - Supervised Release/Probation -10/05

DEFENDANT: **TYRONE BATTLE**

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CASE NUMBER: **1: 05 CR 10053 - 001 - NMG****ADDITIONAL SUPERVISED RELEASE PROBATION TERMS**

The defendant is to participate in a program for substance abuse counseling as directed by the United States Probation Office, which program may include testing to determine if defendant has reverted to the use of alcohol or drugs. The defendant shall be required to contribute to the costs of such services based upon ability to pay or availability of third-party payment.

The defendant is to participate in a mental health program as directed by the United States Probation Office. The defendant shall be required to contribute to the costs of such services based upon ability to pay or availability of third-party payment.

The defendant shall attend a public, private or private non-profit domestic violence offender rehabilitation program that has been approved by the Court, if available within a 50-mile radius of defendant's legal residence.

Continuation of Conditions of Supervised Release Probation

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AO 245B(05-MA) (Rev. 06/05) Judgment in a Criminal Case
Sheet 5 - D. Massachusetts - 10/05

Judgment — Page 5 of 10DEFENDANT: **TYRONE BATTLE**CASE NUMBER: **1: 05 CR 10053 - 001 - NMG****CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

| TOTALS | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|--------------------------|--------------------|---------------------------|
| | \$ \$100.00 | \$ | \$ |

- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|-----------------------------|---------------------------|-----------------------------------|--------------------------------------|
|-----------------------------|---------------------------|-----------------------------------|--------------------------------------|

| | | |
|---------------|------------------|------------------|
| TOTALS | \$ \$0.00 | \$ \$0.00 |
|---------------|------------------|------------------|

See Continuation
Page

- Restitution amount ordered pursuant to plea agreement \$ _____

- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

- The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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AO 245B (Rev. 06/05) Criminal Judgment
 Attachment (Page 1) — Statement of Reasons - D. Massachusetts - 10/05

DEFENDANT: **TYRONE BATTLE**
 CASE NUMBER: **1: 05 CR 10053 - 001 - NMG**
 DISTRICT: **MASSACHUSETTS**

Judgment — Page **of 10****STATEMENT OF REASONS****I COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT**

- A The court adopts the presentence investigation report without change.
- B The court adopts the presentence investigation report with the following changes.
 (Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report, if applicable.)
 (Use Section VIII if necessary.)
- 1 Chapter Two of the U.S.S.G. Manual determinations by court (including changes to base offense level, or specific offense characteristics):
 - 2 Chapter Three of the U.S.S.G. Manual determinations by court (including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):
 - 3 Chapter Four of the U.S.S.G. Manual determinations by court (including changes to criminal history category or scores, career offender, or criminal livelihood determinations):
 - 4 Additional Comments or Findings (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions):
- C The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.

II COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply.)

- A No count of conviction carries a mandatory minimum sentence.
- B Mandatory minimum sentence imposed.
- C One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum does not apply based on
 - findings of fact in this case
 - substantial assistance (18 U.S.C. § 3553(e))
 - the statutory safety valve (18 U.S.C. § 3553(f))

III COURT DETERMINATION OF ADVISORY GUIDELINE RANGE (BEFORE DEPARTURES):

Total Offense Level: **19**
 Criminal History Category: **1**
 Imprisonment Range: **63** to **78** months
 Supervised Release Range: **2** to **3** years
 Fine Range: **\$ 6,000** to **\$ 60,000**
 Fine waived or below the guideline range because of inability to pay.

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AO 245B (05-MA) (Rev. 06/05) Criminal Judgment
 Attachment (Page 3) — Statement of Reasons - D. Massachusetts 10/05

DEFENDANT: **TYRONE BATTLE**

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CASE NUMBER: **1: 05 CR 10053 - 001 - NMG**
 DISTRICT: **MASSACHUSETTS****STATEMENT OF REASONS****VI COURT DETERMINATION FOR SENTENCE OUTSIDE THE ADVISORY GUIDELINE SYSTEM**
 (Check all that apply.)**A The sentence imposed is (Check only one):**

- below the advisory guideline range
- above the advisory guideline range

B Sentence imposed pursuant to (Check all that apply):1 **Plea Agreement (Check all that apply and check reason(s) below.):**

- binding plea agreement for a sentence outside the advisory guideline system accepted by the court
- plea agreement for a sentence outside the advisory guideline system, which the court finds to be reasonable
- plea agreement that states that the government will not oppose a defense motion to the court to sentence outside the advisory guideline system

2 **Motion Not Addressed in a Plea Agreement (Check all that apply and check reason(s) below.):**

- government motion for a sentence outside of the advisory guideline system
- defense motion for a sentence outside of the advisory guideline system to which the government did not object
- defense motion for a sentence outside of the advisory guideline system to which the government objected

3 **Other**

- Other than a plea agreement or motion by the parties for a sentence outside of the advisory guideline system (Check reason(s) below.):

C Reason(s) for Sentence Outside the Advisory Guideline System (Check all that apply.)

- the nature and circumstances of the offense and the history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1)
- to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))
- to afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))
- to protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))
- to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))
- to avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6))
- to provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))

D Explain the facts justifying a sentence outside the advisory guideline system. (Use Section VIII if necessary.)